



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Approval of Agreement Between City of Lodi and Tokay Radio Control Modelers for Use of Pixley Park Site

MEETING DATE: August 4, 1999

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the City Council approve the agreement between the City of Lodi and Tokay Radio Control Modelers for Use of Pixley Park Site.

BACKGROUND INFORMATION: The Tokay Radio Control Modelers has asked staff to revise their current use agreement for Pixley Park to include an adjusted fly path and any other issues that needed to be updated.

This club has been using the Pixley Park site since 1974 to fly remote control airplanes. To date, the club has put over \$22,000 in development to the site including a relocation of the runway in 1997, and now another adjustment to the fly path. The club has had a long-standing relationship with the Parks and Recreation Department and staff is recommending the agreement to be effective August 1, 1999 to December 31, 2002.

FUNDING: None. The club provides any needed improvements to the site.

Ron Williamson
Parks and Recreation Director

RW/sb

Attachment

cc: City Attorney
Tokay Radio Control Airplane Club

APPROVED: _____

H. Dixon Flynn -- City Manager

07/27/99

AGREEMENT
USE OF PIXLEY PARK SITE BY
TOKAY RADIO CONTROL MODELERS

PARTIES:

This agreement is made by and between the City of Lodi, a municipal corporation ("City") and the Tokay Radio Control Modelers ("RC Modelers").

The term of this agreement is three years. The effective date of this agreement is August 1, 1999 and it shall remain in effect until December 31, 2002. This agreement supersedes any and all previous agreements between the parties.

RECITALS:

The City is the owner of the parksite commonly known as Pixley Park, which is located on Beckman Road in the City of Lodi. It is City's intent to develop Pixley Park as a park, but as of the date of this agreement City has not done so.

In entering into this agreement it is the intent of the parties that any use of the premises by RC Modelers is temporary in nature and that said temporary use shall in no manner interfere, delay or hinder City's future development of a park at the Pixley Park site.

TERMS AND CONDITIONS:

1. **Premises:** City grants to RC Modelers the right to use that portion of Pixley Park described in Exhibit A for the operation of remote control model aircraft.
2. **Consideration:** In consideration for the use of said premises RC Modelers shall do the following:
 - a. Any and all improvements to the premises to be constructed or otherwise placed upon said premises by RC Modelers shall be subject to prior approval by City;

- b. RC Modelers shall maintain the premises in a clean condition by removing trash and other debris (not including weeds and grass), from the premises;
 - c. RC Modelers shall take all reasonable steps to prevent their activities on said premises from causing a nuisance, annoyance or other harm to any and all persons or entities who own or occupy neighboring properties and this shall include, but not be limited to, prohibiting model aircraft from flying over any neighboring building and/or occupied property.
3. **Insurance\Hold Harmless:** City shall, as owner of the property, be responsible to the extent provided by law for any damages arising from the condition of the property itself, or from the direct and active negligence of City's employees and officers. RC Modelers shall save, defend, indemnify and hold harmless City, its officers, agents or employees from all damages, costs or expenses which may arise because of damages or injury caused by RC Modelers, its officers, agents, members or employees during the course of its activities on said premises. Such indemnity shall include attorney's fees. RC Modelers is required to carry a policy of comprehensive general liability insurance in compliance with all provisions of the "Risk Transfer Requirements for Lease or Use of City of Lodi Facilities", attached hereto as Exhibit B and incorporated herein by reference.
4. **Compliance With Local Ordinances:** RC Modelers agrees to meet any and all requirements as found in local codes or ordinances and to obtain all necessary permits, clearances and approvals from City, County or State officials prior to conducting any improvements, events or other activities on said premises.
5. **Disposition of Improvements:** It is agreed that any and all fixtures or other nonremovable improvements placed upon the premises by RC Modelers may be left on the premises upon termination of this agreement. It is further agreed that RC Modelers shall seek no reimbursement, damages or other consideration from City for the value, if

any, of any and all such fixtures or other nonremovable improvements that may be left on the premises upon the termination of this agreement.

6. **Termination of Agreement:** This agreement may be terminated at any time with or without cause by either party upon thirty days notice.

7. **Entire Agreement:** This document contains the entire agreement between the parties. Any inconsistent prior or contemporaneous oral terms are void and shall not be used to modify or supplement this written agreement.

IN WITNESS WHEREOF, the parties hereto, being in agreement with the terms of this writing, have set their hands as follows:

CITY OF LODI, a municipal corporation

TOKAY RADIO CONTROL MODELERS

H. DIXON FLYNN
City Manager

KENNETH V. ROBBERS

Dated: _____

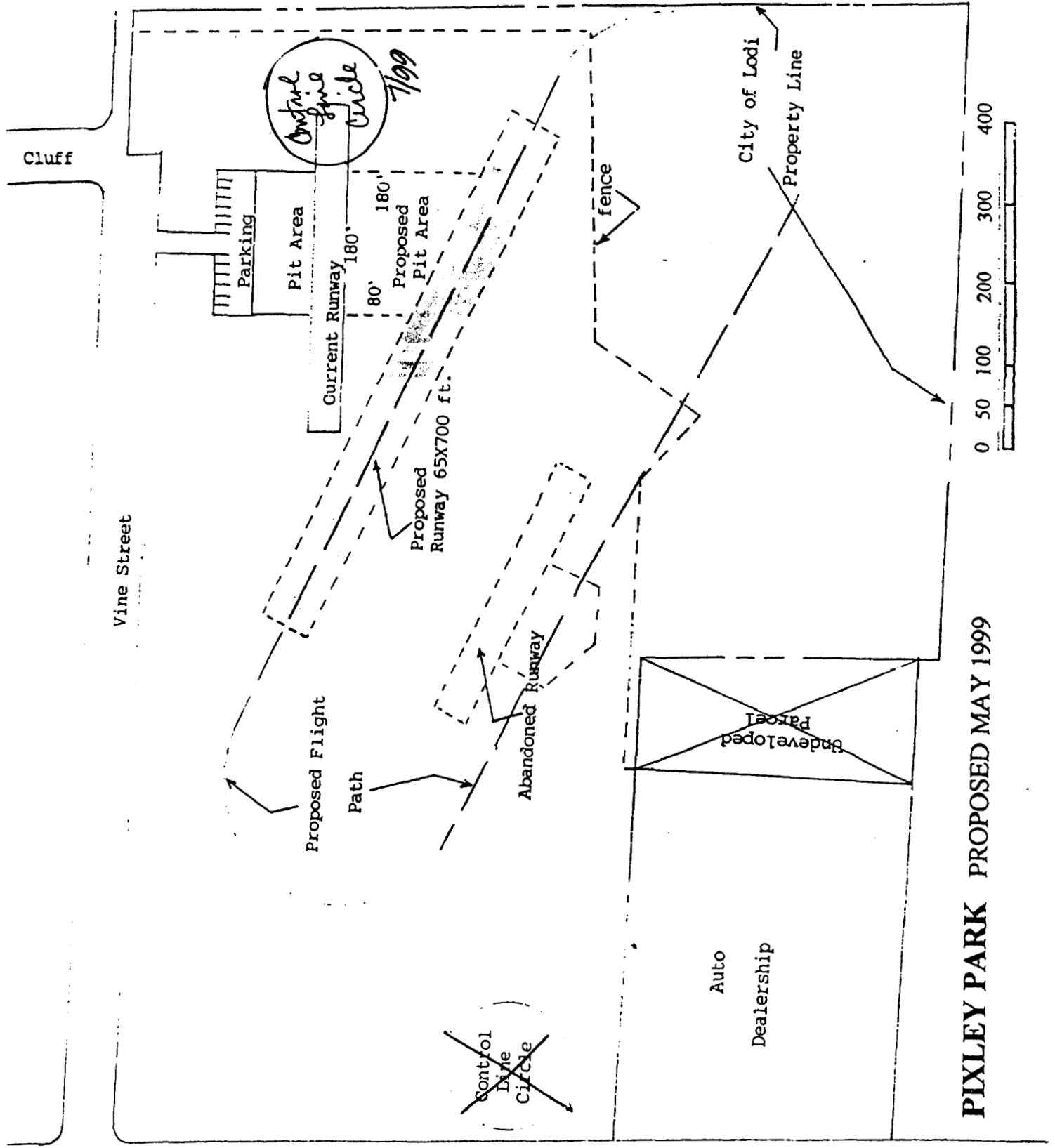
Dated: 8/15/95

Attest:

Approved as to form:

ALICE M. REIMCHE
City Clerk

RANDALL A. HAYS
City Attorney



Beckman

PIXLEY PARK PROPOSED MAY 1999

EXHIBIT B

CITY OF LODI RISK TRANSFER REQUIREMENTS FOR LEASE OR USE OF CITY FACILITIES

1. Any individual party or group (hereinafter called Lessee) leasing, renting or otherwise using City of Lodi facilities, is required to carry a policy of Comprehensive General Liability insurance, and must complete a formal application or permit. Processing of applications is handled by the department responsible for the facility.
2. A duplicate or certificate of insurance shall be delivered to the City 30 DAYS prior to the use of City facilities.

NOTE: Lessee agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is as lease consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Govt. Code < 810 et seq.).

"Claims made" coverage requiring the insured's to give notice of any potential liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.

3. Each insurance certificate shall contain satisfactory evidence that each carrier is required to give the City of Lodi immediate notice of the cancellation or reduction in coverage of any policy during the effective period of the use of the City's facilities.
4. Each insurance certificate shall state on its face or as an endorsement, the location or and a description of the function that it is insuring.
5. If the City has not approved the insurance certificate and appropriate application or permit prior to the commencement of any portion of the function, the City's facilities will not be allowed to be utilized, and any contract or agreement entered into will become null and void.
6. Provided the lease agreement or contract does not prohibit a subtenant, all provisions of these requirements shall apply to and be construed as applying to any subtenant of the Lessee.
7. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

8. In each and every instance, the City of Lodi must be named as an additional insured on the face of the insurance certificate or as an endorsement attached to the insurance certificate. (The City of Lodi, its Elected and Appointed Boards, Commissions, Officers, Agents and Employees, must be named the additional insured, not Hutchins Street Square, Parks and Recreation, or another individual or department).
9. The address of the City of Lodi must be shown along with number 8 above, (i.e. Additional Insured, City of Lodi, its Elected and Appointed Boards, Commissions, Officers, Agents and Employees, 221 W. Pine Street, Lodi, Ca. 95240) This must be the street address NOT the post office box.
10. In addition to the Additional Names Insured Endorsement on Lessee's policy of insurance, said insurance policy shall be endorsed to include the following language or reasonable facsimile:
"Such insurance as is afforded by the endorsement for the Additional Insured's shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."
11. The combined single limits for bodily injury and property damage shall not be less than \$1,000,000 each occurrence. If alcohol is to be consumed or sold at the Lessee's event, then liquor liability coverage must be provided.
12. The Policy effective date and expiration date must coincide with and span the date(s) of the event being insured.
13. If the limits of coverage are not the amounts specified in Section 10 and 11 above and/or if the City is not named as an additional insured on the insurance certificate, not in conformance with the requirements of paragraph 2 above, the City will not accept the insurance certificate, and a corrected certificate must be furnished to the City prior to any use of City facilities.
14. If a corrected insurance certificate and appropriate application or permit is not received by the City of Lodi prior to the use of City facilities, the City will not allow the facilities to be used, and any agreement or contract entered into will become null and void.

RESOLUTION NO. 99-110

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE
AGREEMENT BETWEEN THE CITY OF LODI AND TOKAY RADIO
CONTROL MODELERS FOR USE OF PIXLEY PARK SITE, AND
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

=====

BE IT RESOLVED that the Lodi City Council does hereby approve the Agreement between the City of Lodi and Tokay Radio Control Modelers for the use of Pixley Park site; and

BE IT FURTHER RESOLVED that the term of this Agreement will cover the period of August 1, 1999 through December 31, 2002; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the agreement on behalf of the City of Lodi.

Dated: August 4, 1999

=====

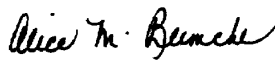
I hereby certify that Resolution No. 99-110 was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 4, 1999 by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Mann, Nakanishi, Pennino
and Land (Mayor)

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


ALICE M. REIMCHE
City Clerk